

U. S. ENVIRONMENTAL PROTECTION AGENCY

REGION 7

901 N. 5th STREET

KANSAS CITY, KANSAS 66101

04 MAR 29 AM 8:19

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

In the Matter of

)
) Docket No. TSCA-07-2004-0001
)
)
)
)
)

Stephen K. Bruce

Respondent

CONSENT AGREEMENT AND FINAL ORDER

This proceeding for the assessment of a civil penalty was initiated on or about October 6, 2003, pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C.

§ 2615(a), when the U.S. Environmental Protection Agency (EPA), Region 7 (Complainant) issued a Complaint and Notice of Opportunity for Hearing to Stephen K. Bruce (Respondent).

The Complaint charged Respondent with violations of Section 409 of TSCA, 15 U.S.C. § 2689, and the regulations of 40 C.F.R. Part 745, Subpart F - *Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property* (Disclosure Rule), which were promulgated pursuant to Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d.

The Complaint proposed a civil penalty of \$11,000 for these violations. The Complainant and Respondent entered into negotiations in an attempt to settle the allegations contained in the Complaint. This Consent Agreement and Final Order is the result of such negotiations, and fully and finally resolves the allegations contained in the Complaint.

CONSENT AGREEMENT

1. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint, and admits the factual allegations of the Complaint.
2. Respondent waives his right to contest the allegations of the Complaint and his right to appeal the Final Order accompanying this Consent Agreement.
3. Respondent and Complainant agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.
4. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of Respondent's knowledge, he is presently in compliance with all requirements of 40 C.F.R. Part 745, Subpart F.
5. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty in the amount of \$1540, to be paid within thirty (30) days of the effective date of the Final Order.
6. Respondent understands that his failure to timely pay any portion of the mitigated civil penalty stated in Paragraph 5 above, may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the applicable statutory rate on the unpaid balance until such civil penalty and any accrued interest are paid in full. A late payment handling charge of \$15 will be imposed after thirty (30) days and an additional \$15 will be charge for each subsequent thirty (30) day period. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

FINAL ORDER

Pursuant to the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601-2692, and based upon the information set forth in the Consent Agreement accompanying this Final Order, **IT IS HEREBY ORDERED THAT:**

1. Respondent shall pay a mitigated civil penalty of \$1540 within thirty (30) days of the effective date of this Final Order. Such payment shall identify the Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

EPA-Region 7
c/o Mellon Bank
P.O. Box 360748M
Pittsburgh, Pennsylvania 15251.

2. A copy of the check shall simultaneously be sent to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 7
901 N. 5th Street
Kansas City, Kansas 66101; and

Mike Gieryic, Attorney
Office of Regional Counsel
U.S. Environmental Protection Agency
Region 7
901 N. 5th Street
Kansas City, Kansas 66101.

3. Respondent and Complainant shall each bear their own costs and attorneys' fees incurred as a result of this matter.

RESPONDENT
STEPHEN K. BRUCE

Date: 3-10-04.

By: Stephen K. Bruce
Stephen K. Bruce owner
Print Name Title

COMPLAINANT
U. S. ENVIRONMENTAL PROTECTION AGENCY

Date: 3/19/04

By: Mike Gieryic
Mike Gieryic
Office of Regional Counsel

IT IS SO ORDERED. This Order shall become effective immediately.

Date: Mar. 26, 2004

Robert L. Patrick
ROBERT L. PATRICK
Regional Judicial Officer
EPA, Region 7

IN THE MATTER OF Stephen K. Bruce, Respondent
Docket No. TSCA-07-2004-0001

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Michael Gieryic
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Stephen K. Bruce
6215 Windsor Drive
Des Moines, Iowa 50312

Copy by Facsimile and
First Class Pouch Mail to:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

The Honorable William B. Moran
Administrative Law Judge
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20460

Dated: 3/29/04


Kathy Robinson
Regional Hearing Clerk